

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7089

BILL NUMBER: HB 1468

NOTE PREPARED: Apr 30, 2009

BILL AMENDED: Apr 29, 2009

SUBJECT: Commercial Dog Breeders and Animal Cruelty.

FIRST AUTHOR: Rep. Lawson L

FIRST SPONSOR: Sen. Lubbers

BILL STATUS: Enrolled

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill does the following.

Registry of Commercial Dog Brokers and Breeders: It authorizes the Board of Animal Health (Board) to establish a registry of commercial dog brokers and commercial dog breeders in Indiana. It exempts animal shelters, humane societies, certain animal rescue operations, hobby breeders, certain people who breed hunting dogs for sport, and certain people who breed service or dogs for use by police or the military from the requirements imposed on commercial dog breeders.

Definitions: The bill defines "hobby breeder" as a person who maintains 20 or fewer unaltered female dogs at least 12 months of age, and defines "commercial dog breeder" as a person who maintains more than 20 unaltered female dogs at least 12 months of age. It defines "commercial dog broker" as a person who is licensed under federal law and sells at least 500 dogs in a calendar year.

Fees and Penalties: The bill requires commercial breeders and brokers to register with the Board, and specifies that failure to register is a Class A misdemeanor. It provides that a commercial dog breeder must register annually with the Board and pay a fee based on the number of unaltered female dogs the breeder owns. It specifies that a person who fails to register is liable for double the amount of unpaid fees, which the Attorney General may collect. It requires a commercial dog broker to register and pay a \$1,000 annual fee. The bill also provides that a breeder or broker who knowingly or intentionally makes a material misstatement in registering commits a Class A misdemeanor.

Standards of Care: It requires a commercial breeder to comply with the standards of care established by the United States Department of Agriculture (USDA) and certain other standards of care. It authorizes the Board

to enforce the USDA and other standards when sufficient fees have been deposited in the Breeder and Broker Fund to permit enforcement, and it grants the Board the authority to enforce the commercial breeder provisions by seeking injunctive relief or a civil penalty of \$500 for a knowing violation, \$1,000 for an intentional violation, and \$5,000 for the knowing or intentional violation of an injunction.

Local Units: It prohibits a unit from adopting an ordinance imposing more stringent requirements on commercial dog breeders after December 31, 2009, but permits a unit to enforce a more stringent ordinance if the ordinance was adopted before January 1, 2010.

Records: The bill requires a commercial breeder to provide a consumer with certain veterinary records, and to keep its own records for at least five years.

Conditions of Bail, Probation, or Parole: The bill authorizes a court, as a condition of bail or parole, or the parole board, as a condition of parole, to prohibit a person charged with or convicted of an animal cruelty offense from owning, harboring, or training an animal, and, if the person is prohibited from having direct or indirect contact with an individual, from having direct or indirect contact with any animal belonging to the individual.

Animal Neglect: The bill provides that a person neglects an animal if the person fails to: (1) provide reasonable care for; or (2) seek veterinary care for; an injury or illness to a dog or cat that seriously endangers the life or health of the dog or cat.

Torture: It broadens the definition of torturing an animal by administering poison by applying the definition to domestic animals. (Current law applies only to dogs or cats.)

Animal Cruelty by Abandonment or Neglect: It provides that, for purposes of committing animal cruelty by abandoning or neglecting an animal in a person's custody, a feral animal is not considered to be in a person's custody. It makes abandoning or neglecting an animal a Class A misdemeanor, and enhances the penalty to a Class D felony if the person has a prior conviction.

Animal Fighting Contests: The bill provides that a second or subsequent conviction for attending an animal fighting contest is a Class D felony.

Killing a Domestic Animal: It makes it killing a domestic animal, a Class D felony, for a person to knowingly or intentionally kill a domestic animal without the consent of the owner of the domestic animal. The bill exempts from the animal cruelty statutes: (1) the destruction of an animal by an animal control program; (2) the destruction of an injured or ill animal by an individual to prevent the animal from prolonged suffering; (3) conduct not resulting in severe injury or illness to an animal that is incidental to exhibiting an animal for show, competition, or display; (4) the humane destruction of an animal by its owner; and (5) parking an animal.

Effective Date: July 1, 2009; January 1, 2010.

Explanation of State Expenditures: Summary: The bill may increase costs for the State Board of Animal Health to establish and maintain a commercial dog breeder and commercial dog broker registry and to send notices to registrants 30 days prior to the expiration of their registration period. It may also increase the Board's costs of enforcement. However, the Board is to enforce USDA standards only when there is sufficient funding from registration fees. Additionally, the Attorney General's Office may incur additional

expenses to bring actions to collect unpaid registration fees.

The bill could also increase the costs of incarceration and the fines received by creating penalties concerning registering and by adding to the definition of animal neglect and enhancing the penalty for a second or subsequent animal neglect offense. It could increase the fine revenue for certain animal cruelty offenses by enhancing the penalty, creating a felony for prior offenses, and expanding or establishing the definition of the offense.

Commercial Dog Breeder and Dog Broker Registry: The Board indicates it could adapt existing systems to provide for a commercial dog breeder and broker registry. The adaption is expected to cost between \$0 and \$80,000 in start-up costs. The annual costs for notification of renewal to approximately 3,060 registrants is expected to be about \$3,200.

Enforcement of Standards of Care: The Board is authorized to enforce the USDA and other standards of care concerning cages and exercise when the Board determines sufficient fees have been deposited in the Commercial Dog Breeder and Broker Fund established under the bill. The Board may seek injunctive relief, issue an order of compliance, and impose civil penalties. Estimates of the cost to provide enforcement among the estimated 3,000 commercial dog breeders and 60 dog brokers varies from \$720,000 to \$1,080,000. Because the estimated cost of enforcement and the estimated registration fees received vary so widely, when the Board would have sufficient funds to undertake enforcement is unclear.

Conditions of Bail, Probation, or Parole: Violation of a condition of bail, probation, or parole could result in an offender serving a period of incarceration or it could extend the period the offender is under community supervision. If an offender is supervised in the community on bail, probation, or parole for a longer period of time, courts may need more staff to supervise more offenders. Any effects of this bill would a result of the court's or parole board's actions.

Criminal Offenses: Costs for the state may increase if an offender is incarcerated in a state facility rather than a local jail. Additionally, there are no data available to indicate how many offenders may be convicted of killing a domestic animal, a Class D felony, established by this bill. The bill would increase the penalty for cruelty to an animal from neglect or abandonment from a Class B misdemeanor to Class A misdemeanor, or for a prior conviction, to a Class D felony. Also, the bill increases the potential pool of offenders by changing from the definition from the owner to one who has custody of a vertebrate animal. It increase the penalty for cruelty to an animal for animal fighting from a Class A misdemeanor to a Class D felony if the offender has a prior conviction. It separates the offense of torturing or mutilating a vertebrate animal from cruelty to an animal for beating, but does not change the penalty, a Class D felony.

Background: Enforcement of Standards of Care: The Board estimates, based on Humane Society information, that there are 3,000 dog breeders in the state and about 60 dog brokers. Based on the Board's experience with dairy farm enforcement, they anticipate a cost of \$72,000 per inspector including salary, benefits, indirect costs, and transportation and communication needs. Currently, the Board has 10 inspectors for 2,000 dairy farms, which would equate to about 15 inspectors needed to inspect 3,000 dog breeders. The cost estimate is shown below:

Number of Inspectors		Cost per Inspector		Total Cost
10	*	\$72,000	=	\$720,000
15	*	\$72,000	=	\$1,080,000

Bail, Probation, or Parole: When a court finds that a person who is on probation has violated a condition set by the court, the court can only impose one of the following sanctions:

1. Continue the person on probation with or without modifying or enlarging the conditions;
2. Extend the person's probationary period for not more than one year beyond the original probationary period; or
3. Order execution of all or part of the sentence that was suspended at the time of the initial hearing.

Criminal Offenses: The average expenditure to house an adult offender was \$20,287 in FY 2008. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost per offender for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily. The estimated average cost of housing a juvenile in a state juvenile facility was \$69,223.

Explanation of State Revenues: *Fees:* Registration fees for both commercial dog breeders and brokers will be deposited in the Commercial Dog Breeder and Broker Fund established under the bill. The Fund is administered by the Board and money in the Fund does not revert to the state General Fund. Money in the Fund is continually appropriated to fund inspection of commercial dog breeding operations and the enforcement of laws concerning commercial dog breeders and brokers. Total annual registration fees are estimated at \$960,000.

Penalties: The bill establishes the following penalties concerning commercial dog breeder and broker registration:

- A Class A misdemeanor for knowingly or intentionally failing to register as a commercial dog breeder or broker, plus two times the amount of the registration fee. (Fees collected under this penalty are placed in the Commercial Dog Breeder and Broker Fund.)
- A Class A misdemeanor for either false registration as a commercial dog breeder or for false registration as a commercial dog broker.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000 and for a Class B misdemeanor is \$1,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public

defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Civil Penalties: The Board may impose civil penalties for violations concerning the duties of commercial dog breeders and brokers. The civil penalties include \$500 for a knowing violation, \$1,000 for an intentional violation, and \$5,000 for a knowing and intentional violation of an injunction.

Criminal Offenses: Revenue to the Common School Fund may increase if a person is sentenced for a Class A misdemeanor rather than for a Class B misdemeanor for cruelty to an animal for neglect or abandonment, or for a Class D felony for a prior conviction for cruelty to an animal for neglect or abandonment or animal fighting. The maximum fine for a Class B misdemeanor is \$1,000, while the maximum fine for a Class A misdemeanor is \$5,000, and for a Class D felony is \$10,000. Court fees of \$120 would remain unchanged.

Background: The following is the fee schedule for commercial dog breeder and broker registration for a one-year period.

Registry	Number of Unaltered Female Dogs at Least 12 Mos. Old	Fee
Commercial Dog Breeder	<50	\$75
	50 - 100	\$200
	101 - 150	\$300
	151 - 250	\$400
	>250	\$500
Commercial Dog Broker	N/A	\$1,000

There are no data available to project the amount of registration fees each commercial dog breeder will pay. Thus, using the average registration cost of \$300 for commercial dog breeders, the estimated annual revenue from 3,000 commercial dog breeders is estimated to be \$900,000, and the annual fee from 60 commercial dog brokers is estimated at \$60,000.

Explanation of Local Expenditures: *Criminal Offenses:* Costs to local governments could increase for longer periods of incarceration. The maximum term of imprisonment for a Class B misdemeanor is up to 180 days, while the maximum term for a Class A misdemeanor is up to one year. However, if an offender is sentenced to state prison for a Class D felony rather than to a county jail for a Class A or a Class B misdemeanor, the costs to the county may be reduced. The average daily cost of housing a prisoner is an approximately \$44.

Explanation of Local Revenues: *Criminal Offenses:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of

criminal case.

State Agencies Affected: State Board of Animal Health; Attorney General.

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association; Doug Metcalf, State Board of Animal Health.

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